

What is the nature and extent of claimant's disability? The parties have stipulated that claimant suffered a 5 percent whole body disability on a functional basis and a

17.6 percent task loss pursuant to K.S.A. 44-510e. Therefore, the only remaining issue for the Board's determination is what, if any, loss of wage earning capacity claimant has suffered pursuant to K.S.A. 44-510e.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire evidentiary file contained herein, the Board finds the Award of the ALJ should be affirmed.

The Award sets out findings of fact and conclusions of law in significant detail and it is not necessary to repeat those herein. The Board adopts those findings and conclusions as its own. The ALJ found claimant failed to put forth a good faith effort in both her attempts to retain her job with respondent and in her post-injury job search. The Board, in adopting the Award in toto, agrees and affirms that result.

Claimant's failure to complete the drug treatment program was not justified. While claimant alleges that she could not have paid for the treatment, the personnel director for respondent, Renee Lynn Harris, testified that claimant's insurance, available through respondent, would have paid for a substantial portion of the cost of the treatment. Claimant, for unknown reasons, failed to inquire of respondent as to the availability of the insurance, even though the orientation material available to claimant indicated possible insurance assistance. This, coupled with claimant's extremely limited job search after her termination from respondent, indicates little or no desire on claimant's part to continue in any employment, with respondent or otherwise. The Board, therefore, affirms the ALJ's denial of any permanent partial disability compensation in excess of the stipulated functional impairment of 5 percent to the whole body.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Bruce E. Moore dated October 11, 2006, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of February, 2007.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Robert A. Anderson, Attorney for Claimant
Jeffery R. Brewer, Attorney for Respondent and its Insurance Carrier
Bruce E. Moore, Administrative Law Judge